

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/101,413	08/07/98	STAUSS	H RPMS102

HM11/0430

EXAMINER

EWOLDT, G

ART UNIT

PAPER NUMBER

1644

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DATE MAILED:

04/30/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action	Application No. 09/101,413	Applicant(s) Stauss, H.	
Examiner G. R. Ewoldt	Art Unit 1644		
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
<p>THE REPLY FILED <u>Mar 19, 2001</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.</p>			
THE PERIOD FOR REPLY [check only a) or b)]			
<p>a) <input checked="" type="checkbox"/> The period for reply expires <u>5</u> months from the mailing date of the final rejection.</p>			
<p>b) <input type="checkbox"/> In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (ff)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for the reply expire later than SIX MONTHS from the mailing date of the final rejection.</p>			
<p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>			
<p>1. <input checked="" type="checkbox"/> A Notice of Appeal was filed on <u>Mar 19, 2001</u>. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.</p>			
<p>2. <input type="checkbox"/> The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.</p>			
<p>3. <input checked="" type="checkbox"/> The proposed amendment(s) will not be entered because:</p>			
<p>(a) <input checked="" type="checkbox"/> they raise new issues that would require further consideration and/or search. (See NOTE below);</p>			
<p>(b) <input type="checkbox"/> they raise the issue of new matter. (See NOTE below);</p>			
<p>(c) <input type="checkbox"/> they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</p>			
<p>(d) <input type="checkbox"/> they present additional claims without cancelling a corresponding number of finally rejected claims.</p>			
<p>NOTE: <u>The change of the invention of Claim 1 from a method of treating a patient with a disease to a method of killing cells in a patient comprised a new issue, possibly new matter.</u></p>			
<p>4. <input checked="" type="checkbox"/> Applicant's reply has overcome the following rejection(s): <u>none</u></p>			
<p>5. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claim(s).</p>			
<p>6. <input type="checkbox"/> The a) <input type="checkbox"/> affidavit, b) <input type="checkbox"/> exhibit, or c) <input type="checkbox"/> request for reconsideration has been considered but does NOT place the application in condition for allowance because:</p> <hr/>			
<p>7. <input type="checkbox"/> The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.</p>			
<p>8. <input checked="" type="checkbox"/> For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):</p>			
<p>Claim(s) allowed: <u>none</u></p>			
<p>Claim(s) objected to: <u>none</u></p>			
<p>Claim(s) rejected: <u>1-9 and 14-18</u></p>			
<p>9. <input type="checkbox"/> The proposed drawing correction filed on _____ a) <input type="checkbox"/> has b) <input type="checkbox"/> has not been approved by the Examiner.</p>			
<p>10. <input type="checkbox"/> Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ <i>Patrick J. Nolan</i> <i>4/23/01</i></p>			
<p>11. <input type="checkbox"/> Other:</p>			